

10/034,0721130**REMARKS**

Claims 1-20 are currently pending in the subject application. Claims 1-11 are presently under consideration, and claims 12-20 are currently withdrawn. The Examiner correctly identified that claim 1 was mistakenly marked as "Currently Amended" in the reply dated July 7, 2004, but was not amended. Claim 1 has been identified as "Original" in this reply reflecting the lack of any amendments to the original claim.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

**I. Rejection of Claims 1 and 3-9 Under 35 U.S.C. §102(b)**

Claims 1 and 3-9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kunert *et al.* (US 6,109,528). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Kunert *et al.* does not teach or suggest each and every limitation of applicants' claimed invention.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Independent claim 1 recites *an imager coupled to the portable electronic device; a laser coupled to the portable electronic device*. These are two separate image capture devices. The imager is an image capture device such as a charged couple device (CCD) photosensor array imaging device. The laser scanner includes its own laser output and image sensor. Furthermore, the subject claim recites *an application specific integrated circuit (ASIC) comprising circuitry for communicating with the imager and laser scanner*. Contrary to the Examiner's assertions, Kunert *et al.* does not teach this aspect of the subject claim. Rather, Kunert *et al.* describes a laser scanning assembly that has a separate ASIC for driving the laser beam and a separate microcontroller for decoding the reflected light sensed by the photo diode. Applicants' claimed invention employs an ASIC with circuitry for communicating with a laser scanner as well as another imaging device.

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The Office Action dated September 22, 2004 asserts in the section titled *Response to Arguments* that the arguments *supra* are not persuasive based upon the specification and claim 1 not specifying two separate devices, an imager and a laser scanner. Refer to Figure 1 and to page 4, lines 19-23 of the specification which states "Fig. 1 is a high-level schematic illustration of a portable bar code reading terminal 5 employing an ASIC 10 having circuitry 12 for carrying N number of functions (N being an integer). The *terminal is coupled to M number of devices* 13 (M being an integer), such as *an imager, a laser scanner*, a fingerprint reader, etc." Also refer to page 6, lines 3-8 of the specification which states "Furthermore, in conventional systems, two completely different sets of hardware and software were used to route *data from an imager* and *data from a scanner* to a system. According to an aspect of the present invention, the ASIC 10 *interfaces with both an imager and a scanner* and routes the *data from the two devices* to the bar code reading terminal 5." These sections of the specification and drawings clearly identify two separate devices, an imager and a laser scanner coupled to the terminal, each providing separate data captured from each device to the ASIC. Accordingly, the laser scanner must have its own provisions for capturing the laser scan based on it providing data separate from the data provided by the imager.

In view of at least the above, it is respectfully submitted that Kunert *et al.* does not teach or suggest applicants' claimed invention as recited in independent claims 1 (and claims 3-9 which depend there from). Accordingly, withdrawal of this rejection is respectfully requested.

## II. Rejection of Claim 2 Under 35 U.S.C. §103(a)

Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kunert *et al.* in view of Lieb *et al.* (US 5,875,415). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Kunert *et al.* does not teach or suggest each and every limitation of applicants' claimed invention and Lieb *et al.* is not citable prior art against the subject application.

The Examiner concedes in the Office Action that Hammack *et al.* does not teach *a data blender adapted to receive data from multiple sources and distribute the data to multiple destinations based on a type or content of the data*. Lieb *et al.* is cited in an attempt to cure this deficiency. However, Lieb *et al.* is not citable prior art with respect to the present application pursuant to 35 U.S.C. §103(c) provided in pertinent part below:

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(c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), and or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The subject matter of Lieb *et al.* and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to Symbol Technologies, Inc. Therefore, Lieb *et al.* is not a citable reference with respect to the subject application. Accordingly, withdrawal of this rejection is respectfully requested.

### III. Rejection of Claims 10 and 11 Under 35 U.S.C. §103(a)

Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kunert *et al.* in view of Meier *et al.* (US 6,561,428). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Kunert *et al.* and Meier *et al.*, individually or in combination, do not teach or suggest each and every element set forth in the subject claims.

Meier *et al.* does not make up for the aforementioned deficiencies of Kunert *et al.* with respect to independent claim 1 (which claims 10 and 11 indirectly depend from). Accordingly, withdrawal of this rejection is respectfully requested.

10/034,0721130**Conclusion**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP102US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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